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## EVALUATOR MANUAL TRANSMITTAL SHEET

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**Distribution:**

☐ All Child Care Evaluator Manual Holders  
☒ All Residential Care Evaluator Manual Holders  
☐ All Evaluator Manual Holders

**Transmittal No.**  
**09APX-02**

**Date Issued**

February 2009

**Subject:**

**2008 Chaptered Legislation**

**Appendix A**

**Community Care Facilities (Children's Residential)**

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**Reason For Change:**

This transmits summaries of legislation chaptered in 2008 affecting Community Care Facilities (Children's Residential). The summaries are divided into two sections as follows:

1. Immediate Action Required – Interim instructions are provided.
2. Information Only – No action required by the CCLD.

An index is attached to assist staff in locating specific bills. Statutes referenced in this document become effective on January 1, 2009.

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**Filing Instructions:**

Insert the attached pages into Appendix A. Do not remove similar documents from the previous years.

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**Approved:**

***Thomas Stahl***

***2/9/2009***

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## 2008 CHAPTERED LEGISLATION

### CHILDREN'S RESIDENTIAL FACILITIES

GROUP HOMES	CERTIFIED FAMILY HOMES
FOSTER FAMILY HOMES	SMALL FAMILY HOMES
FOSTER FAMILY AGENCIES	CRISIS NURSERIES
COMMUNITY TREATMENT FACILITIES	ADOPTION AGENCIES
TRANSITIONAL HOUSING PLACEMENT PROGRAM	

<b>BILL NUMBER/AUTHOR</b>	<b>SUBJECT</b>	<b>PAGE</b>
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#### **ACTION REQUIRED**

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**Unless otherwise noted, all new legislation becomes effective on January 1, 2009. When conducting licensing visits, LPAs should, to the extent practical, make sure that providers are aware of any new requirements. However, regardless of whether this information is provided, it is the licensee's responsibility to be aware of any new requirements affecting their program.**

## **ACTION REQUIRED**

### **AB 978 (Benoit), CHAPTER 291, STATUTES OF 2008**

**Affects:** Foster Family Homes, Group Homes, Small Family Homes, Foster Family Agencies, Certified Family Homes, Transitional Housing Placement Programs, Crisis Nurseries, Adult Residential Facilities, Social Rehabilitation Facilities, Adult Day Programs (All Community Care Facilities), Residential Care Facilities for the Chronically Ill (RCF-CI), Residential Care Facilities for the Elderly (RCFE)

**Subject:** Immediate Civil Penalties; California Department of Social Services (CDSS) use of civil penalty moneys; unannounced facility visits; Plans of Correction; licensing report requirements

**Summary:** AB 978 requires the immediate assessment of civil penalties for designated serious violations at community care facilities (CCFs), including Foster Family Homes, RCF-CIs, and RCFEs. AB 978 requires that collected civil penalties be expended by the CDSS exclusively for the technical assistance, training, and education of licensees.

The bill mandates unannounced follow-up visits within 30 days of the effective date of license suspensions, within 30 days of the effective date of revocations, and within 30 days after service of an order for the immediate exclusions of persons from facilities.

The bill requires the CDSS to ensure that a licensee's Plan of Correction (POC) is measurable and verifiable, and to specify in its licensing reports all violations that, if not corrected, will have a direct and immediate risk to clients in care. In addition, the CDSS shall complete all complaint investigations and place a note of final conclusion in the CDSS facility file, regardless of whether the license was surrendered.

This bill specifically addresses the following for community care facilities (CCFs), RCF-CIs, and RCFEs:

1. Authorizes that collected civil penalty fees be deposited into the Technical Assistance Fund and that the CDSS expend civil penalty fees collected from CCFs, RCF-CIs and RCFEs exclusively for the technical assistance, training, and education of licensees.
2. Requires the CDSS to ensure that a licensee's POC is verifiable and measurable and that the POC specify the evidence that is acceptable to establish that a deficiency has been corrected.
3. Requires that licensing reports specify all violations that, if not corrected, will have a direct and immediate risk to the health, safety, or personal rights of clients in care.
4. Requires the CDSS to complete all complaint investigations and place a note of final conclusion in the CDSS's facility file regardless of whether the license was voluntarily surrendered

5. Requires the CDSS to conduct unannounced visits within 30 days after the effective date of a temporary suspension, within 30 days of the effective date of a revocation, or within 30 days after the CDSS serves an order of immediate exclusion.
6. Defines violations warranting immediate civil penalty assessment of \$150 per day, per violation until correction is made, as follows:
  - a. Fire clearance violations including, but not limited to, overcapacity, ambulatory status, inoperable smoke alarms, and inoperable fire alarm systems with certain exceptions as listed in item 7 below;
  - b. Absence of supervision;
  - c. Accessible bodies of water;
  - d. Accessible firearms or ammunition;
  - e. Refused entry of an agent of the CDSS to a facility; and
  - f. The presence of an excluded person on the premises.
7. Provides that for fire clearance violations mentioned in number 6 above, civil penalties shall not be assessed under the following specific circumstances: 1) the licensee has initiated eviction proceedings; 2) the licensee has requested the appropriate fire clearance based on ambulatory, nonambulatory or bedridden status and the decision is pending; or 3) the licensee has filed an appeal for a denied bedridden fire clearance (penalties shall not be assessed until the final appeal is decided or 60 days have passed from the date of citation, whichever is earlier).

**Implementation:**

Modifications to the Evaluator Manual are required to provide direction to Licensing Program Analysts on the above changes. Additionally, certain licensing forms related to civil penalties will be modified. These changes will be clarified in Information Releases scheduled to be published in the Spring of 2009.

Training will be provided to Licensing Program Analysts by the Technical Assistance Bureau.

## **ACTION REQUIRED**

### **AB 2096 (Bass), CHAPTER 483, STATUTES OF 2008**

**Affects:** Group Homes (GH)

**Subject:** Foster Children: Extracurricular Activities

**Summary:** AB 2096 amends Welfare and Institutions (WI) Code sections 362.05 and 727 to extend the reasonable and prudent parent standard (RPPS) to Group Home providers.

The bill requires GH providers to use the RPPS as defined in WI Code section 362.04, subsection (a)(2) to determine whether to give permission for a child in foster care who is either a ward or dependent and living in a GH to participate in extracurricular, enrichment, and social activities. RPPS is defined in this statute as:

“...the standard characterized by careful and sensible parental decisions that maintain the child's health, safety, and best interest.”

AB 2096 prohibits any state or local regulation or policy from preventing or creating barriers to participation in those activities.

AB 2096 also amends WI Code section 727 to require state and local entities to ensure that private agencies (Please note: Private agencies means GH) providing foster care services to wards of the court have policies that are consistent with, protect, and promote the ability of wards to participate in extracurricular, enrichment, and social activities.

#### **Applicability to GH:**

- Requires GH administrators and facility managers, or a designated responsible staff member, to apply RPPS.
- Requires the GH staff responsible for making RPPS decisions to take reasonable steps to determine the appropriateness of an activity in consideration of a foster child's age, maturity, and developmental level.
- Encourages the GH staff responsible for making RPPS decisions to consult with the GH social worker or treatment staff who are most familiar with the foster child to aid in making RPPS decisions.
- Empowers GH providers to approve or disapprove activities based on their own assessment using RPPS without prior approval of the social worker, licensing agency, or the court.
- In applying the RPPS, GH are required to take “reasonable steps” to determine the appropriateness of the activity in consideration of the child's age, maturity, and developmental level. We recognize that there are many different

approaches to determine whether an activity is appropriate for a child in GH care. Therefore, we are providing the following examples of “reasonable steps” that a GH may take in making this determination:

- Have adequate information about the child in care so the GH can make informed decisions. For example, make an effort to be aware of anything in the child’s history, case plan, and any orders issued by the court that may suggest that a particular activity would not be appropriate for the child. If the GH is not aware of the child’s history or if the child’s case plan is silent on whether the proposed activity would be appropriate, the GH is encouraged to consult with the child’s social worker or probation officer.
- Take into account the type of activity and consider the child’s mental and physical health, and behavioral propensities.
- Consider where the activity will be held, with whom the child will be going, and when they will return.
- Ask the question: Is this an age-appropriate extracurricular, enrichment, or social activity?
- Take into account any reasonably foreseeable risk of an activity and what safety factors and direct supervision may be involved in the activity in order to prevent potential harm to the child, i.e., hunting, paint ball, archery, or similar activities that may pose a higher risk.

### **Implementation:**

- If a Licensing Program Analyst (LPA) receives a complaint about the use of the RPPS in a GH, the LPA shall ask who made the RPPS decision and what reasonable steps were taken to ensure the health and safety of a specific child in making a RPPS decision. The LPA shall review the child’s file for any documentation from the placement worker or probation officer regarding any limitations on the use of RPPS for the child.
- If the GH staff responsible have taken reasonable steps to ensure the health and safety of the child in making the RPPS decision or if the GH staff responsible have acted in accordance with specific documentation from the placement worker or probation officer, then the LPA shall not cite.
- A LPA shall cite WI Code sections 362.05, subsection (a) for the child who is a dependent of the court, or 727, subsection (a)(4)(A) for the child who is a ward of the court, if a GH is found to be out of compliance as specified above.

## **ACTION REQUIRED**

### **AB 2651 (Aghazarian) Chapter 701, Statutes of 2008**

**Affects:** Foster Family Homes (FFH), Foster Family Agencies (FFA), and Certified Family Homes (CFH)

**Subject:** Foster Care, Adoption, and Dependent Children

**Summary:** AB 2651 amends Health and Safety Code section 1524, subsection (c) to permit licensed Foster Family Homes or Certified Family Homes within the same Foster Family Agency to transfer their existing license or certification to a new location. These homes are required to meet all applicable licensing laws and regulations at the new location.

#### **Implementation:**

The following procedures pertain to FFH moving within the same county and CFH moving within the same FFA. Further implementation instructions will be provided at a later date to address FFH moving to a new location between licensing jurisdictions, i.e. county-to-county or from county licensing office to state licensing Regional Office. However, in the interim and specific to this relocation situation, current standard relocation practice will apply.

#### **Applicability to FFH**

- If a Licensing Program Analyst (LPA) receives notice from a caregiver that the caregiver is moving within the same county and wishes to continue operating their FFH at a new location, the LPA shall request that the caregiver submit an updated LIC 283, Foster Family Home Application as the written notification.
- Upon notice of the move, the LPA shall request that the caregiver submit documentation specific to the new location to the state or county licensing office that includes Evidence of Control of Property and a new LIC 610B (Emergency Plan) for FFH.
- Upon receipt of the written notification, the LPA shall make an announced relocation caseload management visit to the caregiver's new location to ensure that the caregiver is in compliance with all applicable licensing laws and regulations for FFH at the new location.
- To transfer the FFH license to a new location, the state Regional Office shall update the existing Licensing Information System record for the FFH with the caregiver's address at the new location and retain the existing FFH license number. For the county, similar practice may apply. An updated license shall be provided to the caregiver with the same effective date as original licensure.

- The LPA shall cite applicable licensing laws and regulations if the caregiver's new location is found to be out of compliance. The LPA shall not cite for Unlicensed Operation.

### **Applicability to FFA and CFH**

- Foster Family Agencies (FFA) shall request that the caregiver submit updated documentation specific to the new location as written notification. The FFA shall update their CFH file when a CFH moves within the same FFA, in accordance with applicable regulations. An updated certificate of approval shall be provided to the caregiver.

### **Adam Walsh**

- FFH moving to a new location within the same county and Certified Family Homes (CFH) moving to a new location within the same FFA with their existing license or certification as permitted by AB 2651 shall not be subject to Adam Walsh requirements.

Regulations, the Office Procedures Manual, Section 330 Relocation Application Procedures, and applicable Evaluator Manual sections will be revised.



## **ACTION REQUIRED**

### **AB 3015 (Brownley), CHAPTER 557, STATUTES OF 2008**

**Affects:** Group Homes (GH), Foster Family Homes (FFH), Foster Family Agencies (FFA), Certified Family Homes (CFH), Small Family Homes (SFH)

**Subject:** Foster Care

**Summary:** AB 3015 helps ensure the safety and security of foster youth attending public schools by amending the existing training requirements for group home administrators, licensed foster parents, and relative and non-relative extended family member (NREFM) caregivers as follows:

- Health and Safety (H & S) Code section 1522.41 requires GH Administrator Certification training to include training on the provisions of the California Student Safety and Violence Prevention Act of 2000.
- H & S Code section 1529.2 requires licensed and certified foster parent initial 12 hour foster parent training to also include the California Student Safety and Violence Prevention Act of 2000.
- H & S Code section 16003 requires community college districts with a foster care education program to make available training on the California Student Safety and Violence Prevention Act of 2000, to relative and NREFM caregivers.
- AB 3015 does not provide a specific number of hours necessary to complete this training.

Some of the provisions of the California Student Safety and Violence Prevention Act of 2000 include teaching techniques for resolving conflicts between pupils without violence, preventative techniques for reducing violence in school, and techniques for effective communication with school personnel. This act further provides training for school staff and administrators on conflict resolution and mediation techniques for resolving conflicts between students. More information regarding this act can be found at the following website: <http://www.cde.ca.gov/ls/ss/se/documents/ab537report.pdf>.

#### **Implementation:**

- Licensing staff shall ensure that facilities have updated their plan of operation to include these new training requirements and shall cite General Licensing Requirements Section 80022, if a facility is not in compliance (although FFHs are not required to have a plan of operation, they are required to obtain this training).
- Until regulations are developed, licensing staff shall cite H & S Code Section 1522.41 (which is applicable to GH administrators) and H & S Code Section 1529.2 (which is applicable to licensed FFH providers and certified foster parents of FFAs) when agencies or caregivers are out of compliance with these training requirements.

- Licensing staff are to provide licensees a copy of the implementation plan if providers are unaware of this new training requirement or direct them how to access the information on the website: <http://ccld.ca.gov/PG830.htm>.

## INFORMATION ONLY – NO ACTION REQUIRED

### **AB 2327 (Caballero), CHAPTER 361, STATUTES OF 2008**

**Affects:** All Community Care Facilities, Residential Care Facilities for the Elderly, Residential Care Facilities for the Chronically Ill, and Child Day Care Facilities.

**Subject:** Emergency Services: Humanitarian and Relief Services

**Summary:** AB 2327 amends section 8596 of the Government Code. This new law affects every state agency. It recognizes that persons fleeing a disaster often lose access to their personal documents and identification, and seeks to ensure that such persons are not prohibited from obtaining disaster-related assistance and services as a result. More specifically, this legislation does the following:

- Requires all state agencies to provide all possible assistance to the Governor and the director of the state Office of Emergency Services in implementing this law.
- Requires public employees “to assist evacuees and other individuals in securing disaster-related assistance and services without eliciting any information or document that is not strictly necessary to determine eligibility under state and federal laws.”
- Provides that nothing in this new law shall prevent public employees “from taking reasonable steps to protect the health or safety of evacuees and other individuals during an emergency.”

## **INFORMATION ONLY – NO ACTION REQUIRED**

### **AB 2337 (Beall), CHAPTER 456, STATUTES OF 2008**

**Affects:** Alcohol and Drug Counselors

**Subject:** Mandated Reporters

**Summary:** AB 2337 amends section 11165.7 of the Penal Code that applies to mandated reporters. AB 2337 adds alcohol and drug counselors to the list of individuals who are mandated reporters of child abuse and neglect.

- An alcohol and drug counselor, as described in AB 2337 is a person providing counseling, therapy, or other clinical services for a state licensed or certified drug, alcohol, or drug and alcohol treatment program.

## INFORMATION ONLY – NO ACTION REQUIRED

### **AB 2618 (Solorio), CHAPTER 553, STATUTES OF 2008**

**Affects:** This bill does not impact CCLD.

**Subject:** Child abuse reporting: Department of Justice, index

**Summary:** This bill authorizes the Department of Justice to make information it maintains in the Child Abuse Central Index available to county child welfare agencies or delegated county adoption agencies conducting a background investigation of an applicant seeking employment or volunteer status with the agency who, in the course of his/her employment or volunteer work, will have direct contact with children who are alleged to have been, are at risk of, or have suffered, abuse or neglect.

## INFORMATION ONLY – NO ACTION REQUIRED

### **SB 1380 (Steinberg), CHAPTER 486, STATUTES OF 2008**

**Affects:** Group Homes (GH), Foster Family Agencies (FFA), Certified Family Homes (CFH)

**Subject:** Intensive treatment foster care (ITFC) program

**Summary:** SB 1380 expands the ITFC residential model which is based upon services currently being provided in a group home (with a rate classification level 9 to 14) to having the same or more comprehensive services provided in a less restrictive certified family home environment operated by an FFA. This additional responsibility for providing services to youth with severe emotional or behavioral problems adds a new dimension of services to the FFA and their certified homes. FFAs wanting to provide ITFC services must enter into a Memorandum of Understanding (MOU) with the county.

To become ITFC certified, a caregiver must complete 40 hours of initial training. The training must be completed before becoming an ITFC caregiver and before placement of a child. The training may be waived by the county upon proof of prior experience. An additional 32 hours of ongoing in-service training within the first 12 months will be required after becoming a certified ITFC caregiver, and 12 hours of ongoing in-service training each year thereafter will be required. Training shall include, but not be limited to, working with abused and neglected children, behavior techniques, and cardiopulmonary resuscitation and first aid. The county is responsible for ensuring that this training is completed via their MOU with the FFA.

SB 1380 allows for new federal funding that make the ITFC program a more viable option for placement of these children. It is anticipated there will be an increase in the number of counties and FFAs offering the ITFC program to a larger population of children currently living in high level group homes.

No action is required by CCL. However, an FFA that is newly approved to provide ITFC services must inform licensing of its new status by submitting an amended program statement to the local licensing office.